

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Amendment of the Commission's Rules	)	PR Docket No. 92-257
Concerning Maritime Communications	)	
	)	
Petition for Rule Making filed by	)	RM-9664
Regionet Wireless License, LLC	)	

To: The Commission

**Opposition to Petition for Reconsideration**

Warren C. Havens ("Havens") is a licensee in the AMTS service. Havens hereby submits this opposition to the petitions for reconsideration submitted by Mobex Communications, Inc. (Mobex) and Paging Systems, Inc. ("PSI") of the rules establishing service contours and interference protection contours in the AMTS service adopted in the Fifth Report and Order in the above docket<sup>1</sup> (the "Petitions," the "Contour Rules" the "5<sup>th</sup> R&O"). This opposition is mostly directed at the Mobex Petition, but as the context and licensing files makes clear, it also addresses the PSI Petition. When "Petitioner" is used herein, it means Mobex, and where applicable, PSI as well.

There Can Be No Claim of Damage by New, *Initial* Rules

Petitioner cannot claim that, where there have been no rules on a matter, initial rules on the matter cause them harm. Petitioner's licenses had no rights regarding service and interference contours prior to the 5<sup>th</sup> R&O, and thus, the adoption of the Contour Rules in the 5<sup>th</sup> R&O causes their licenses no harm. Petitioner clearly took the risk, in obtaining AMTS licenses using service and interference contours that it selected when the Commission had no rules on

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<sup>1</sup> Second Memorandum Opinion and Order and Fifth Report and Order, FCC 02-74, PR Docket No. 92-257.

these matters, that the Commission would one day adopt rules with other contours.<sup>2</sup> Petitioner cannot ask and the Commission has no basis to provide relief from the results of this risk taking. Also, for reasons given above, the PSI argument, in which Mobex joined, that the FCC can't take back the contours they want, fails. The FCC can't take back what it never granted.

Petitions Based on "Continuity" Rule Now Eliminated. Argument Thus Moot

Petitioner claims that if its AMTS stations were subject to the Contour Rules then it could not satisfy the requirements under §80.475(a) for continuity of coverage. However, the

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<sup>2</sup> Their selection of large contours was obviously to gain the maximum licensed area and keep competitors away, not to serve maritime traffic. This could not be clearer by looking at the placement of their stations, and comparing this to the coastlines they are licensed to serve. Compare this to the Watercom stations placement (all established prior to the Watercom purchase by Mobex by a barge company to actually serve its and other barges) along the Mississippi River and Gulf Coast—these are all right along these waterways. Petitioner's contours are insufficient for the service both to the subject coastlines and for what their stations are actually intended to serve, the urban markets where the majority of their stations lie. Petitioner's service contour may be adequate for actual marine stations, at locations along the coastline serving vessels with installed radios and antennas, but not for service to such marine traffic from stations far inland, especially when shielded by mountain ranges, as is the case for numerous stations of Petitioner.

Petitioner took risk and cashed in on it by using contours that theoretically covered some of the licensed coastlines (but provided far less than the required continuity of coverage, even with theoretical F50-50 contours) but actually would not provide effective service along such coastline. If Petitioner denies this, it can simply demonstrate the coverage by citing customers, with contact information, who can verify actual continuity of service. Or, provide real-life service contour maps. No doubt, Petitioner cannot and will not do this. If it had actual service—other than what it inherited from Watercom—it would wave it prominently in this proceeding, including in the Petition. Its bald assertions are evidence of failure, not success, and reveal expectations of lack of diligence by FCC staff. Mobex only speaks of customers and service on the Watercom system, not on any other license.

Petitioner took the risk, for purposes noted above, and with the understanding that when the Commission established rules for these contours, they would be less (smaller contours) than they had chosen. They had every reason to expect that the Commission would select contours the same or similar to those in the adjacent 220 MHz service when the Commission proceeded with a plan to auction AMTS spectrum across the nation, which it gave notice years ago that it would may do. Had Petitioner tried to provide more realistic coverage, it would have selected contours similar to the Contour Rules.

§80.475(a) rule Petitioner refers to was changed in the 5<sup>th</sup> R&O. It was replaced by a new paragraph, which does not have any coverage requirement. It is evident that Petitioner seeks not compliance with this rule or the 5<sup>th</sup> R&O, since it does not bother to review the new rule. Rather, its goal is as stated above: to seek to preserve the territory it obtained at risk by placement of stations and use of contours that were clearly inadequate for complying with this rule prior to its change, but were nevertheless accepted by FCC staff.

In the Alternative:  
Continuity Argument Only Valid For Protection Over Water,  
And Depicted Contours Contradict the Argument, Etc.

In the alternative to the preceding, Petitioner, per its own Continuity argument (see preceding), cannot argue for protection over land. For example, a new AMTS licensee on the same block could provide protection to Petitioner's stations under the Contour Rules for land areas, but provide greater protection over the shipping routes Petitioner alleges to cover. By use of appropriate station placement and antenna patterns, this can be achieved. If, as Petitioner alleges, it actually wants to use the interference contours it proposes rather than those in the Contour Rules in order to maintain continuity of coverage to vessels on shipping routes, then it has no cause for concern regarding placement of new co-channel stations as long as its service to such routes is not effected.

In addition, many of the stations depicted and services described do not support this continuity argument. For example, Mobex discusses only its inherited Watercom system in terms of actual service to waterway traffic, and the maps of the Watercom stations (Exhibit II) do not show much problem: The smaller contours (the Exhibit and text are not clear, but a reader would assume they are service contours per the 5<sup>th</sup> R&O) in most cases overlap over the waterway.

Even when they do not, it is not credible to assert that a geographic licensee would as a habit seek to place stations in between these Watercom stations along this waterway, here and there where they found a gap, as depicted. That would not provide competitive coverage to the waterway or to markets. Rather, Petitioners want protection for stations in the major markets beyond what is reasonable and provided for in the Contour Rules, which is the same as in 220 MHz.

Future Licensing via Auction  
Or Via Set-Asides for Public Safety and Critical Infrastructure  
Would be Harmed by Grant of the Petitions

Grant of the Petitions would decrease territory available to future licensing, including in major urban areas and corridors. This will decrease interest and bids in an auction, or under the Havens-Telesaurus proposal in its pending petition for reconsideration in this docket, will decrease the territory available for Public Safety and Critical Infrastructure.

AMTS Land Service  
and AMTS and 220 MHz

There should not be one interference contour rule for AMTS and another for the adjacent 220 MHz. Both may provide similar services to land units. Equipment vendors, including Motorola and Microwave Data Systems, have made equipment, soon to be commercially available, that spans these two services. Licensees in and users of 220 MHz are looking to AMTS for additional spectrum to add to their 220 MHz operations. Few in the industry think that AMTS and 220 MHz will not be consolidated, either under one set of rules, or in practical operation. It would make no sense to have two differing interference contour rules as Petitioner proposes.

Petition is Moot Regarding Automatically Terminated Licenses  
And Defective Licenses



The Petition is moot regarding licenses that did not meet the construction requirements under §1.946. Such licenses terminated automatically without Commission action in this case [§1.946(c) and §1.955(a)(2)]. Havens has presented evidence to the Commission in informal and formal filings, including with respect to the Mobex Atlantic Coast license,<sup>3</sup> demonstrating clearly, based on records in FCC files on the subject licenses, of such failure. See Attachment below. The evidence includes the letters sent by Mobex clearly reporting lack of construction by the deadline under the license parameters (see Attachment exhibits). Regardless of Commission action or inaction (including dismissal for procedural reasons of formal Havens filings), where there has been this failure, the license automatically terminates.

Operation of a terminated license violates FCC rules and should be sanctioned.

In addition, Except for the Watercom licenses of Mobex<sup>4</sup>, its other licenses never met the requirements under the rules, including for continuity of coverage and TV protection. Havens has presented informal and formal filings with evidence including with respect to Mobex's Atlantic and Pacific coast licenses<sup>5</sup>. (E.g., see Attachment below.)

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<sup>3</sup> Havens' petition for reconsideration and subsequent application for review regarding the renewal of Mobex's Atlantic Coast License. In addition, Mobex reported that its Erie Canal license stations were not constructed by the construction deadline. These licenses were thus automatically terminated under the above-cited rules without Commission action.

<sup>4</sup> For reasons Havens has given in other filings, Watercom obtained both A and B blocks only per its representation of the need for both. This need never came close to materializing. Under FCC precedent, the concession granted must be withdrawn. Watercom cannot be allowed to retain both blocks obtained under false representations. Thus, the Petition is not applicable to both blocks (For more details see footnote 11 of Havens Reply to Mobex Opposition to Petition to Deny filed on 7/27/00 regarding Mobex applications for waterways in Carolinas, Georgia, etc.).

<sup>5</sup> Through the evidence presented by Havens in several filings, the Bureau has learned of licensing actions that are inconsistent with the Commission's Rules. As the Bureau stated in its Order on Further Reconsideration (see 16 FCC Rcd at 19240 released 10/31/01, pg.3, ¶6), concerning Havens' applications for the Arkansas Headwaters, when it learns of such

### Seamless Coverage and Other Fallacies

Had it not gotten away with the act for so long, any objective observer would wonder how in the world Mobex expects the Commission staff to believe its repeated claims in the Petition of seamless coverage (continuity of coverage under the old §80.475(a)). In reality, it did not come close to meeting this continuity of coverage requirement—even using its excessively liberal 17 dBu contour (see above)—not when the applications were submitted and granted, not at the construction deadline, not at renewal. One need only review the FCC files of these licenses. See Attachment below. Even the maps it submits with its Petition show unmistakable huge impermissible breaks in continuity of coverage.<sup>6</sup>

In the Mobex Petition, Mobex includes an unlabelled, unexplained Exhibit II, apparently maps of Watercom system coverage. Without providing details on what the circles mean, and the methods used, these have no legitimacy<sup>7</sup>. In any case, assuming they depict at least the locations of licensed Watercom stations, what they actually show is noted above: Watercom (pre-Mobex) actually built stations to cover the licensed Waterway. Compare these maps to the

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inconsistencies “the appropriate course of action would be to consider whether it should take some action with respect to the affected license or licensee rather than to continue misapplication of such Commission Rule and/or policy.”

<sup>6</sup> Impermissible up until the effective date of the 5<sup>th</sup> R&O. Defects under the old §80.475(a) cannot be cured by the new one, since under the rules the subject licenses could not have been granted or renewed and thus must be terminated.

The Commission may not apply this rule to Havens (e.g., in the recent denial of his Applications for Review regarding dismissals of his applications in Texas and for the Arkansas Headwaters), and yet not apply it to the other AMTS licensees. But that is what it has done. Havens will continue to appeal this.

<sup>7</sup> In addition to this, Mobex’s Exhibit I has no direct connection to their licenses. The attached article reports a barge accident that occurred on the McClellan-Kerr Arkansas River Navigation System (MCKARNS) which the Watercom system does not cover and for which Mobex holds no license.

maps in Exhibit III and IV of stations placed by Mobex. Their sites were obviously not selected to cover the Atlantic coast. And they obviously do not provide continuity of coverage: e.g., see the map on page 15 of Exhibit IV: only the Suffolk station provides coverage of the Atlantic coast. The Bull Run station is far inland and barely projects (even with the theoretical F (50,50) curves used), a signal over a small edge of the Chesapeake Bay. The Richmond station covers no part of the Atlantic Coast or the Chesapeake Bay. Even if the Bay is considered part of the Atlantic Coast, the Richmond site has no coverage of the Bay. Also, the overlap between the Richmond site and the other two stations is only over land. There is no way these three sites can be construed as providing continuity of coverage of the Atlantic Coast or this Bay or any body of water. It is anti-competitive and grossly unfair that the FCC staff has applied with such vigor the continuity of coverage requirement to Havens while waiving it extensively regarding Mobex, at the same time as applying it to Havens, and before and after, providing to Mobex windfalls of spectrum that are simply impermissible under this rule. (In addition, the Mobex applications had other glaring defect under the rules.)

For the above reasons, the Petitions should be dismissed or denied.

Respectfully Submitted,

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## Attachment

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Mobex licenses: No Continuity of Coverage from Initial Application to Present Time, and Failure to Meet Construction Requirements (automatic termination)

- 1) Mobex Licenses, except for Watercom system, have never had continuity of service along the coastlines even from their initial grants. In addition, many of the sites either were untimely constructed, reported only that they “will activate” such station “on or about” a date “to begin tests to commence service”, reported new, non-licensed parameters, did not provide service to the coast or had contours that barely touched the coast, and used LTR type equipment that would not allow for an “integrated” communications system.
  - a. See pending Havens Application for Review of the Mobex Atlantic Coast Renewal filed on 12/3/01 and the dismissed Havens Petition for Reconsideration of the Mobex Atlantic Coast Renewal filed 8/1/01. Some of the exhibits from these filings are attached below to illustrate above points.
    - i. Exhibit 1 shows how many of the Regionet Atlantic Coast stations were constructed untimely and that many of them involved impermissible modifications—moving of site coordinates and raising of antenna without submitting new applications and required studies. It also contains spreadsheets that show similar defects with their Pacific Coast, Great Lakes and Erie Canal licenses. From the grant dates on the Pacific Coast License it is

also obvious that they did not have continuity of service along the coast when its original stations were granted.

- ii. Exhibit 2 page 3 clearly shows that the Regionet Atlantic Coast license, as it was originally granted, never had any continuity of service along any portion of the Atlantic Coast. Many of the stations do not touch the coast or barely touch the coast, and several represent single-site stations. Exhibit 2 also shows that the continuity of service was also not met over time up to the present.
  - iii. Exhibit 3 shows that the activation notices reported construction at coordinates and antenna heights other than those licensed.
  - iv. Exhibit 4 lists those Atlantic Coast stations that increased the antenna height without doing the required studies.
  - v. Exhibit 5 shows that Regionet was using LTR type equipment to build out its Pacific Coast license. LTR does not meet the AMTS requirement for an integrated communications system, since LTR does not work among multiple sites.
- b. Exhibit 6: The Mobex Erie Canal License was constructed late as shown by their activation notices.
- c. Exhibit 7: Mobex's coverage map from their website even shows that they have gaps in continuity of service, even via planned coverage.
- d. Exhibit 8 shows that some of their Pacific Coast sites do not touch the Coast (Lake Isabella and Portland stations—granted as part of Pacific Coast) or barely touch the coast, at least not enough to provide real-life

service to any vessels. In the case of the Lake Isabella site, it shows that Mobex selected sites very far inland for supposedly serving the coast (and, as noted, its contour does not touch the coast).

- 2) See exhibits 2 & 8: On page 14 of their Opposition, Mobex states, “However, our experience in the telecommunications industry leads us to conclude that any combination of factors, including advances in technology, the existence of natural barriers like mountains and trees, and old-fashioned human ingenuity render it very likely that an auction winner will serve the entire area it is purchasing, including the “dead zone” in between an incumbent’s 38dBu circles.” By stating this, Mobex is recognizing that the F (50,50) contours are not reliable due to terrain and other obstructions that may decrease or block signal level, thus allowing an auction winner, who uses real-life propagation models, to place sites between theirs. Mobex could have considered this when placing their sites and used a more realistic propagation model in order to space the sites. Also, if Mobex had experience enough to know that natural barriers could limit theoretical signal strength, then it is ironic that Mobex placed many of their sites farther inland, on the opposite side of coastal mountain ranges or even in the Sierra Mountains (i.e. Lake Isabella station) when trying to serve the coasts. Obviously, it is because they intended to serve land and not the coasts.

# Exhibit 1A:

## Regionet Atlantic Coast Stations WRV374

### Notes:

- 1) All of the below data was acquired from copies of the entire AMTS station files which Havens obtained from the International Transcription Service.
- 2) \*\*Bolted Stations have been changed from originally licensed parameters or have been constructed late (past 11/30/00 deadline)\*\*
- 3) Extension Date of 11/30/00 is per the most recent granted waiver request. This is assuming that, as stated in the 1/9/98 FCC letter, Regionet was granted another year extension in 1998 and not just a waiver of the 8-month construction period because they had already attained this on 7/30/96 from FCC.
- 4) The stations listed as licensed 8/26/97 may have been licensed earlier. A copy of the original site license was not found in the station file. This date was taken from a copy of the entire WRV374 license and is the earliest one found.
- 5) An original license date for the Richmond, VA site could not be found in the copies of AMTS files obtained from ITS.

#	Site City	State	Date Reported Activated	Extension Granted Until	Date License Issued	Current License Specs Per Activation Notices										Changes			Original License Specs				
						Lat	Lon	Ant. Height ft.	Power Watts	Elevation feet	# ft. Antenna Raised	Lat Secs Moved	Lon Secs Moved	Lat	Lon	Ant. (ft.)	Power Watts	Elev. Ft.	Lat	Lon	Ant. (ft.)	Power Watts	Elev. Ft.
1	Manassas	VA	11/29/00	11/30/00	8/26/97	38-54-23	77-40-20	120	50	1216				38-54-23	77-40-20	120	50	1216					
2	Richmond	VA	11/29/00	11/30/00	not available	37-36-52	77-30-56	470	50	257				37-36-52	77-30-56	200	50	257					
3	Fajardo	PR	11/29/00	11/30/00	6/3/96	18-18-36	65-47-41	60	50	3296	270			18-18-36	65-47-41	258	50	3296					
4	Orlando	FL	11/29/00	11/30/00	8/26/97	28-32-21	81-22-44	280	50	100				28-32-21	81-22-44	280	50	100					
5	Spaulding	FL	11/29/00	11/30/00	5/30/96	30-22-45	81-50-00	210	50	88				30-22-45	81-50-00	199	50	88					
6	New York	NY	11/29/00	11/30/00	5/30/96	40-42-18	74-00-51	750	50	27		25	2	40-42-18	74-00-49	1673	50	27					
7	Conway	SC	11/29/00	11/30/00	2/1/99	33-47-06	78-52-44	400	50	43				33-47-06	78-52-44	500	50	43					
8	Raymond	ME	11/29/00	11/30/00	5/30/96	43-55-28	70-29-28	400	50	300	201			43-55-28	70-29-28	199	50	300					
9	New Bern	NC	11/29/00	11/30/00	5/30/96	35-00-02	76-59-32	285	50	62	86			35-00-02	76-59-33	199	50	62					
10	Clearwater	FL	11/29/00	11/30/00	8/26/97	27-53-35	82-42-23	145	50	10				27-53-35	82-42-23	180	50	10					
11	Surfok	VA	11/29/00	11/30/00	5/30/96	36-49-00	76-28-05	175	50	21				36-49-00	76-28-05	199	50	21					
12	Baltimore	MD	11/29/00	11/30/00	5/30/96	39-20-10	76-39-03	400	50	310	201	5		39-20-05	76-39-03	199	50	310					
13	Miami	FL	11/29/00	11/30/00	5/30/96	25-41-06	80-18-54.3	282	50	7	222	9	9	25-41-15	80-19-03	60	50	7					
14	Mangonia Park	FL	11/29/00	11/30/00	8/26/97	26-45-43	80-04-41	380	50	17	180	1	1	26-45-42	80-04-42	200	50	17					
15	Philadelphia	PA	11/29/00	11/30/00	8/26/97	40-02-30	75-14-24	210	50	222	10	1	12	40-02-31	75-14-12	200	50	222					
16	Rehobeth	MA	11/29/00	11/30/00	5/30/96	41-51-54	71-17-15	400	50	210	201			41-51-54	71-17-15	199	50	210					
17	Hamden	CT	6/11/01	11/30/00	2/10/00	41-25-23	72-57-06	365	50	640	20			41-25-23	72-57-06	345	50	640					
18	Valhalla	NY	6/11/01	11/30/00	7/12/99	41-04-13	73-47-25	170	50	505				41-04-13	73-47-25	172	50	505					
19	Verona	NJ	6/11/01	11/30/00	7/12/99	40-50-04	74-13-22	170	50	620				40-50-04	74-13-22	200	50	620					
20	Seiden	NY	6/11/01	11/30/00	7/12/99	40-50-31	73-01-34	95	50	299				40-50-31	73-01-36	161	50	299					
21	Allentown	PA	6/11/01	11/30/00	7/12/99	40-35-54	75-25-07	170	50	810				40-35-54	75-25-07	217	50	810					
22	Narvassa	NC	1/30/01	11/30/00	2/1/99	34-15-04	78-00-42	300	50	26				34-15-04	78-00-42	300	50	26					
23	Perrinville	NJ	1/30/01	11/30/00	2/1/99	40-13-31	74-24-57	190	50	340				40-13-31	74-24-57	120	50	340					
24	Charleston	SC	1/30/01	11/30/00	2/1/99	32-49-14	79-57-25	300	50	17				32-49-14	79-57-25	300	50	17					
25	Savannah	GA	1/30/01	11/30/00	2/1/99	32-04-22	81-04-44	250	50	7				32-04-21	81-04-45	300	50	7					
26	Winterthur	DE	7/9/01	11/30/00	7/12/99	39-48-07	75-36-07	30	50	351				39-48-01	75-35-41	200	50	351					
27	Needham	MA			reported as not constructed																		
28	Uncasville	CT			reported as not constructed																		
29	Trumbull	CT			reported as not constructed																		
30	Mount Freedom	NJ			reported as not constructed																		
31	Hialeah	FL			reported as not constructed																		
32	Tallahassee	FL			reported as not constructed																		
33	Balm	FL			reported as not constructed																		
34	Delray Beach	FL			reported as not constructed																		
35	Oak Hill	FL			reported as not constructed																		
36	Fort Lauderdale	FL			reported as not constructed																		
37	Fort Myers	FL			reported as not constructed																		
38	Auburndale	FL			reported as not constructed																		
39	Sarasota	FL			reported as not constructed																		



# Exhibit 1B, page 1:

## Regionet Pacific Coast Stations--Sorted by Date Licensed Call Sign KAE889

### NOTES:

\*\*\* denotes that notice did not contain FCC date-stamp. Could be other activation date  
 Under "Extension" none found\* doesn't mean they weren't granted one, just not found in station file  
 Bolded Stations have been changed from originally licensed parameters or have been constructed late w/o FCC approval or waiver  
 Many of the activation notices stated "on or after" a certain date, so there is no certainty of if or when a station was placed into operation  
 Many of the activation notices also only stated that the station "will" be activated to "begin tests to commence service", and didn't actually state placement into operation  
 All current data on these sites was taken from the station activation notices submitted to the FCC by Regionet

#	Site City	State	Cancel Date	Built Date	Date Reported Activated	Extension Granted Until	Date License Issued	Current-Per Notices			Power Watts	Elevation (ft.)	Original License Specs			Power Elev. Watts (ft.)	
								Lat	Lon	Ant. Feet			Lat	Lon	Ant. Feet		
1	Eureka	CA	5/24/99	P	1/28/95	2 years	2/24/93	40-43-37	123-58-25	31	50	2651	6	1			
2	Mt. Wilson	CA	5/24/99	P	7/1/94		2/24/93	32-50-17	117-14-56	40	50	740					
3	San Diego	CA		P	2/14/95	none found	2/24/93	34-31-36	119-58-39	90	50	4260		3			
4	Santa Barbara	CA		P	1/7/95	none found	2/24/93	44-00-07	123-06-53	70	50	1300					
5	Eugene	OR		P	2/14/95	2 years	2/24/93	45-31-28	122-44-48	60	50	1040					
6	Portland	OR		P	1/28/95	none found	2/24/93	47-32-51	122-46-59	120	50	1720					
7	Bremerton	WA		Y	9/29/99	1/19/95	4/28/94	33-42-39	117-32-01	70	50	5569	3	21	6		
8	Corona	CA		P	1/7/95	none found	9/7/94	38-24-32	122-06-34	180	50	2720					
9	Vacaville	CA		P	1/7/95	none found	8/10/95										
10	Watukuu	HI	5/24/99				4/16/96										
11	Burlingame	CA	5/24/99	Y	none found	2 years	4/16/96										
12	La Crescentia	CA		Y	5/29/99	2 years	4/16/96	37-10-02	121-55-26	140	50	3402					
13	Loma Ridge	CA	5/24/99	Y			4/16/96										
14	Oakland	CA	5/24/99				6/18/96										
15	Port Hueneme	CA	5/24/99	Y	none found	2 years	6/18/96										
16	Santa Paula	CA		Y			6/18/96										
17	Coos Bay	OR	5/24/99				6/18/96										
18	Westport	OR	5/24/99				6/18/96										
19	Grays Harbor	WA	5/24/99				6/18/96										
20	Chula Vista	CA		Y	2/22/99	none found	10/9/96	32-35-42	116-50-39	20	50	3564		12			
21	Ventura	CA		Y	4/5/97	none found	10/9/96	34-20-57	119-20-07	130	50	1960		2	10		
22	Orcas Island	WA		Y	5/24/99	none found	10/9/96	48-40-45	122-50-31	485	50	2106		85			
23	Chatsworth	CA		Y	none found	2 years	8/26/97										
24	Crestline	CA		P	5/29/99	2 years	8/26/97	34-14-12	117-18-48	60	50	5260					
25	Palmdale	CA		P	5/29/99	2 years	8/26/97	34-32-50	118-12-43	40	50	5085					
26	Pine Valley	CA		P	5/29/99	2 years	8/26/97	32-52-39	116-24-54	50	50	6115					
27	Ramona	CA		P	2/22/99	2 years	8/26/97	33-00-34	116-58-11	80	50	2894					
28	Salinas	CA		Y	9/29/99	2 years	8/26/97	36-32-06	121-37-09	160	50	3396		20			
29	San Rafael	CA		Y	none found	2 years	8/26/97										
30	Thousand Palms	CA		P	5/29/99	2 years	8/26/97	32-52-03	116-25-58	55	50	1580					
31	Walnut Creek	CA		P	5/29/99	2 years	8/26/97	37-52-54	121-55-05	245	50	3580		45			
32	Bakersfield	CA		Y	5/29/99	2 years	7/24/98	35-25-47	118-44-56	100	50	3408					
33	Newport Beach	CA		Y	none found	2 years	8/11/98										
34	San Clemente	CA		Y	none found	2 years	8/11/98										
35	Modesto	CA		Y	5/29/99	2 years	8/12/98	37-30-31	121-22-26	80	50	3099					
36	Bosifort	WA	5/24/99				8/12/98										
37	Coalinga	CA			5/29/99	2 years	1/5/99	36-18-14	120-24-07	180	50	3620		60			
38	El Cajon	CA	5/24/99				1/5/99										
39	Lake Elsinore	CA		Y	due	2 years	1/5/99										
40	Santa Margarita	CA		Y	due	2 years	1/5/99										
41	Cottage Grove	OR	5/24/99	P	due	2 years	1/5/99										
42	Glendale	OR	5/24/99				1/5/99										
43	Roseburg	OR			due	2 years	1/5/99										
44	Woodburn	OR			9/29/99	2 years	1/5/99	45-07-52	122-17-28	120	50	4219					
45	Seattle	WA			9/29/99	2 years	1/5/99	47-30-15	121-58-28	180	50	3005					
46	Corona	CA		Y	due	2 years	3/11/99										
47	El Sereno	CA			due	2 years	6/7/99										
48	Pomona	CA			due	2 years	6/7/99										

Impenmissible Changes				# ft. Antenn Lat Secs				Lon Secs			
Lat	Lon	Ant.	Power	Lat	Lon	Ant.	Power	Lat	Lon	Ant.	Power
40-43-36	123-58-19	170	50	2651	1			1			
32-50-20	117-14-56	253	50	796	3						
34-31-36	119-58-39	90	50	4260							
44-00-07	123-06-53	310	50	1300							
45-31-28	122-44-48	60	50	1040							
47-32-57	122-47-02	99	50	1720	21			6			
33-42-39	117-32-01	70	50	5569							
38-24-32	122-06-34	180	50	2720							
34-16-09	118-13-58	50	50	5070							
37-10-02	121-55-26	140	50	3402							
34-20-00	119-01-00	80	50	2308							
32-35-54	116-50-35	20	50	3564	12			4			
34-20-55	119-19-57	167	50	1960	2			10			
48-40-45	122-50-31	400	50	2106	85						
34-19-41	118-35-48	130	50	3699							
34-14-12	117-18-48	60	50	5260							
32-52-39	118-12-43	40	50	5085							
33-00-34	116-58-11	60	50	2894	20						
36-32-06	121-37-09	160	50	3396							
37-55-44	122-35-11	60	50	2520							
32-52-03	116-25-58	55	50	1580							
35-25-47	118-44-56	100	50	3408	45						
33-36-22	117-48-40	100	50	1156							
33-25-51	117-35-49	40	50	896							
37-50-31	121-22-26	80	50	3099							
36-18-14	120-24-07	120	50	3620	60						
33-36-07	117-20-35	120	50	3522							
35-23-41	120-42-25	100	50	2787							
43-32-55	123-05-10	120	50	3346							
43-22-00	123-04-00	100	50	4380							
45-07-52	122-17-28	120	50	4219							
47-30-15	121-58-28	180	50	3005							
33-47-48	117-37-22	50	50	3885							
34-05-05	118-12-10	40	50	800							
34-08-18	117-48-46	44	50	1100							



[illegible]

# Exhibit 1C:

## Regionet Great Lakes Stations Call Signs KUF732, KPB531, KCE278

**\*\*Bolted Stations have been changed from originally licensed parameters or have been constructed late w/o FCC approval or waiver\*\***  
All current data on these sites was taken from the station activation notices submitted to the FCC by Regionet

#	Site City	State	Date Reported Activated	Extension Granted Until	Date License Issued	Current-Per Notices			Ant. feet	Power Elev. Watts feet
						Lat	Lon			
1	Kenosha	WI	6/11/01	7/14/01	7/14/98	42-30-56	87-53-18		270	50 732
2	Detroit	MI	6/11/01	7/14/01	7/14/98	42-28-58	83-12-19		300	50 685
3	Michigan City	IN	6/11/01	7/14/01	7/14/98	41-40-07	86-48-21		185	50 851
4	Rogers City	MI	6/11/01	7/14/01	7/14/98	45-23-53	83-55-19		140	50 950
5	Milwaukee	WI	7/10/01	7/14/01	7/14/98	43-05-48	87-54-19		250	50 620
6	Rochester	NY	6/22/01	7/14/01	7/14/98	43-08-09	77-35-08		190	50 680
7	Toledo	OH	6/22/01	7/14/01	7/14/98	41-41-22	83-24-31		100	50 580
8	Cleveland	OH	6/22/01	7/14/01	7/14/98	41-22-27	81-43-06		270	50 950
9	Buffalo	NY	6/22/01	7/14/01	7/14/98	43-01-48	78-55-15		300	50 577
10	Erie	PA	6/22/01	7/14/01	7/14/98	42-02-20	80-03-45		225	50 1340
11	Charlevoix	MI	6/22/01	7/14/01	7/14/98	45-39-45	84-38-15		150	50 803
12	Muskegon	MI	6/15/01	7/14/01	7/14/98	43-18-23	85-54-37		45	50 792
13	Syracuse	NY	6/11/01	7/14/01	1/5/99	42-56-46	76-01-45		140	50 1585

Impermissible Changes				
# ft. Antenn	Lat Secs	Lon Secs	Moved	Moved
80		20		7
110				
60				
		2		6
		20		16
80		18		6
110				
35				
		11		7
		4		17

Original License Specs				Power Elev. Watts Feet	
Lat	Lon	Ant. Height			
42-30-36	87-53-11	190	50	732	
42-28-58	83-12-19	190	50	685	
41-40-07	86-48-21	185	50	851	
45-23-53	83-55-19	190	50	950	
43-05-48	87-54-19	190	50	620	
43-08-07	77-35-02	190	50	680	
41-41-02	83-24-47	190	50	580	
41-22-45	81-43-12	190	50	950	
43-01-48	78-55-15	190	50	577	
42-02-20	80-03-45	190	50	1340	
45-39-45	84-38-15	190	50	803	
43-18-34	85-54-44	190	50	792	
42-56-42	76-01-28	200	50	1585	

# Exhibit 1D:

## Regionet Erie Canal and Hudson River Stations Call Sign KCE240

**\*\*Bolded Stations have been changed from originally licensed parameters or have been constructed late w/o FCC approval or waiver\*\***  
 All current data on these sites was taken from the station activation notices submitted to the FCC by Regionet  
 The Syracuse site is not listed under KCE240, but is required to meet the AMTS coverage requirement for the Erie Canal/Hudson River System

#	Site City	State	Date Reported	Extension Granted Until	Date License Issued	Current--Per Notices			Power Watts	Elevation feet
						Lat	Lon	Ant. feet		
1	Beacon	NY	8/15/01	7/14/01	2/1/99	41-29-19	73-56-48	40	50	1290
2	Albany	NY	8/2/01	7/14/01	2/1/99	42-47-08	73-37-44	200	50	950
3	Syracuse	NY	6/11/01	7/14/01	1/5/99	42-56-46	76-01-45	140	50	1585

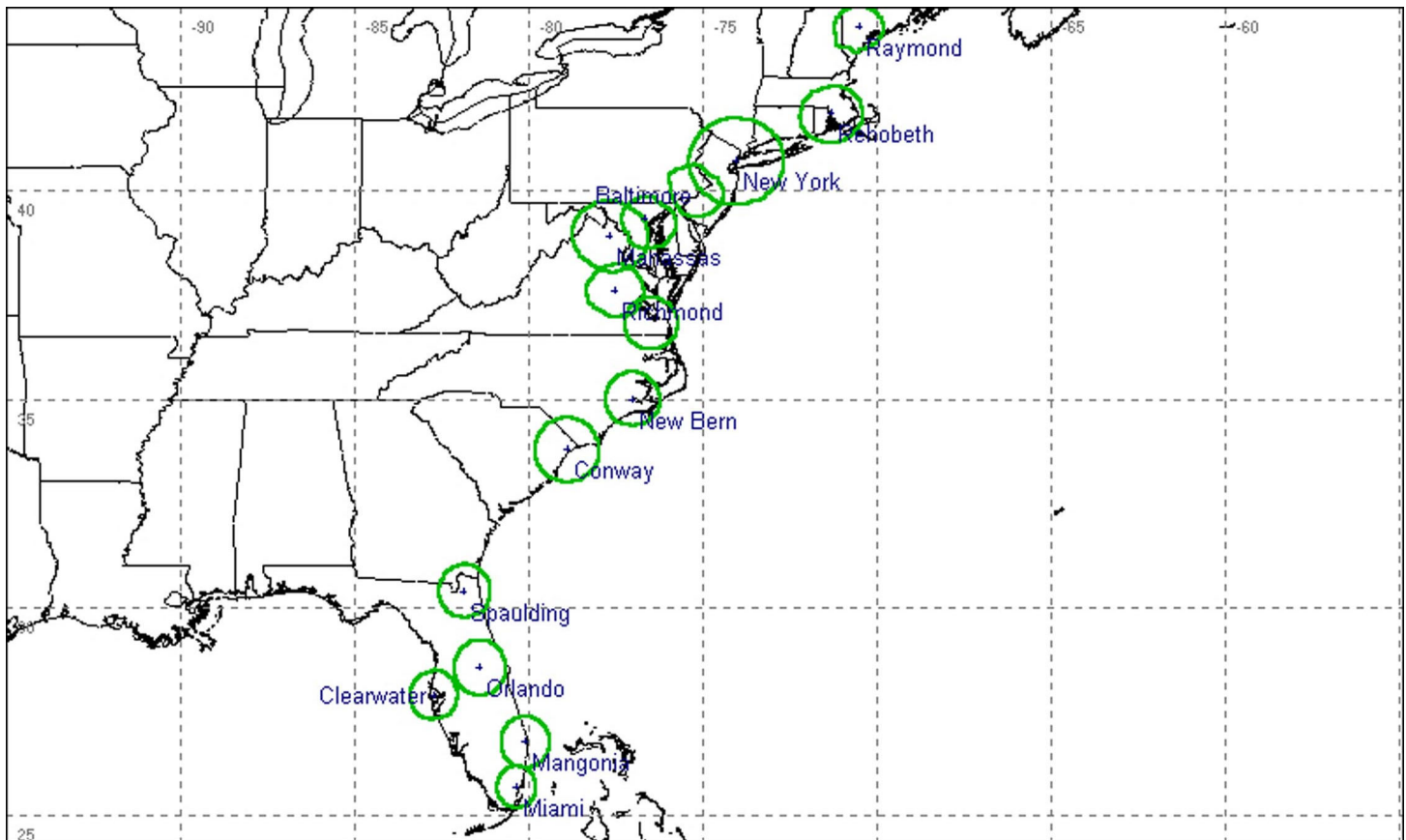
Impermissible Changes				
# ft. Antenn Raised	Lat Moved	Lon Moved	Secs Moved	
				4
		4		17

Original License Specs			Power Watts		Elevation Feet	
Lat	Lon	Ant. Height				
41-29-19	73-56-52	120	50	50	1290	
42-47-08	73-37-44	200	50	50	950	
42-56-42	76-01-28	200	50	50	1585	

## Exhibit 2

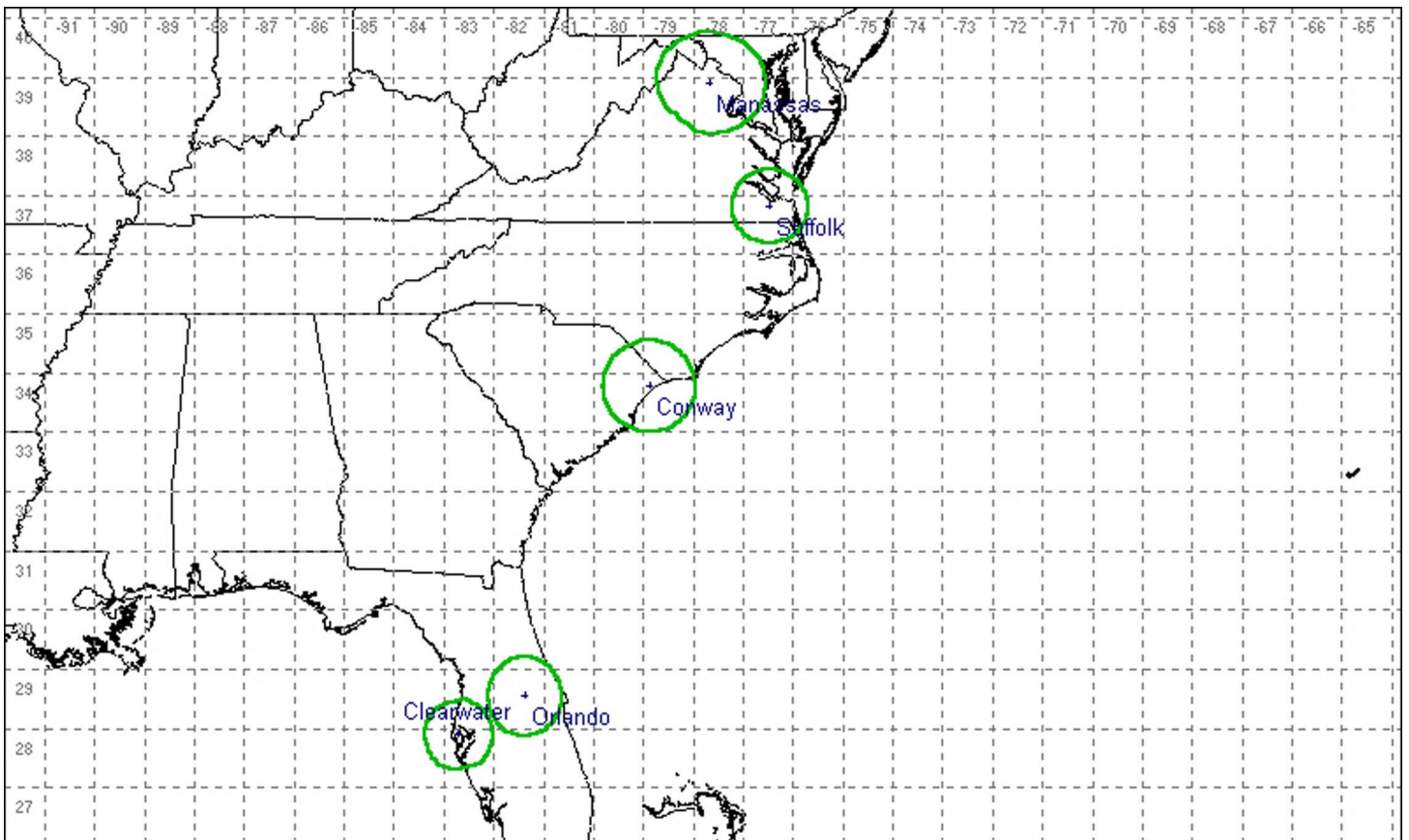
**Methodology:** The following four Maps were produced by Gary Stanford, engineer at Fox Ridge Communications of Gettysburg, PA, using RadioSoft's ComStudy v.2.2 software. To compute and depict in these four maps the WRV374 17 dBuV/m coverage contours, Mr. Stanford used the station data (antenna height, coordinates) from the WRV374 license as it existed prior to being renewed by the FCC on July 2, 2001.

Map #1: Shows coverage provided by WRV374, using original license parameters, for those stations reported as activated in the activation letters submitted to the FCC by 11/30/00.



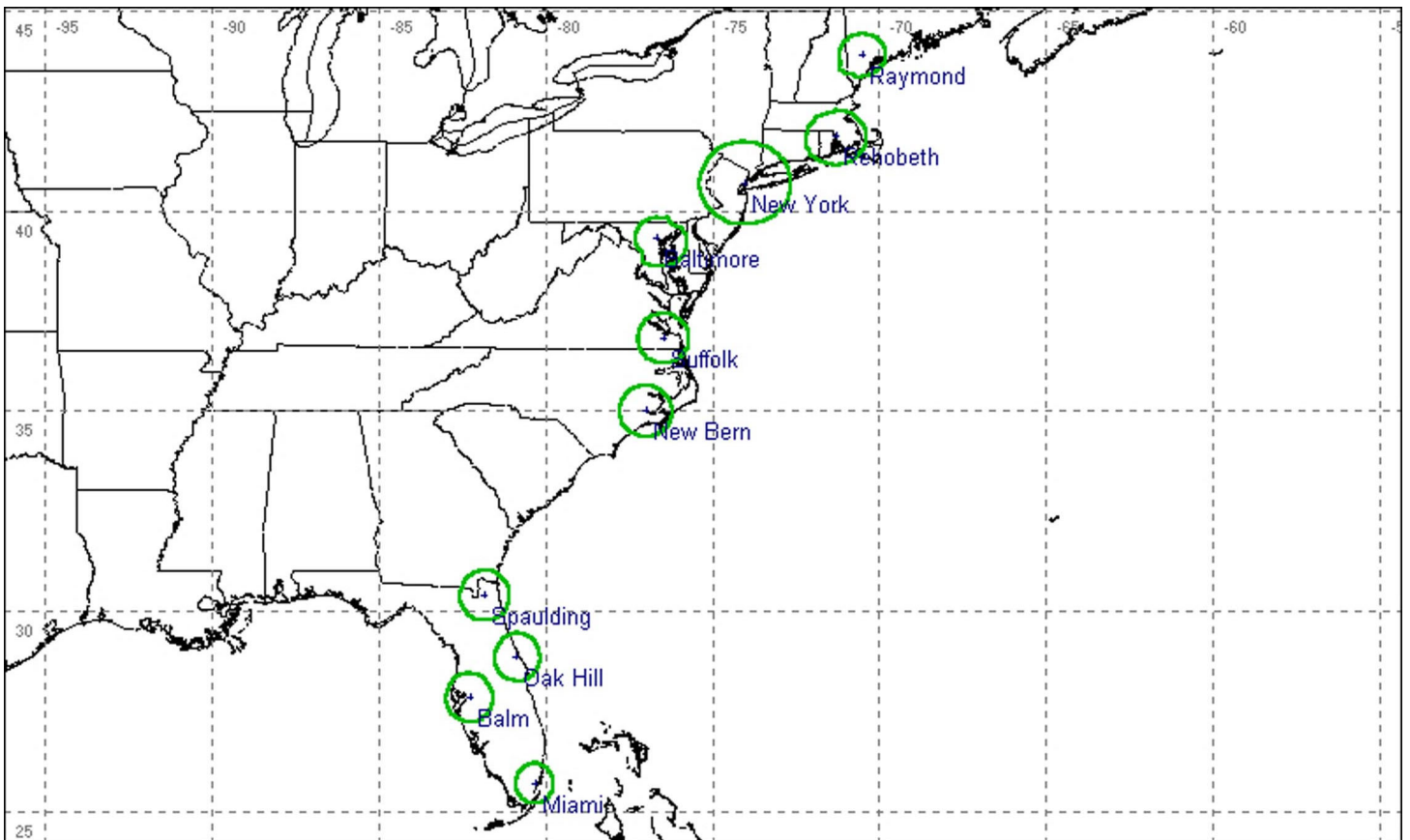
**Exhibit 2 page 2:**

Map #2: Shows the WRV374 coverage provided by stations reported as activated in activation letters submitted to the FCC by 11/30/00, which did not report increases in antenna height and/or a change in location coordinates.



**Exhibit 2 page 3:**

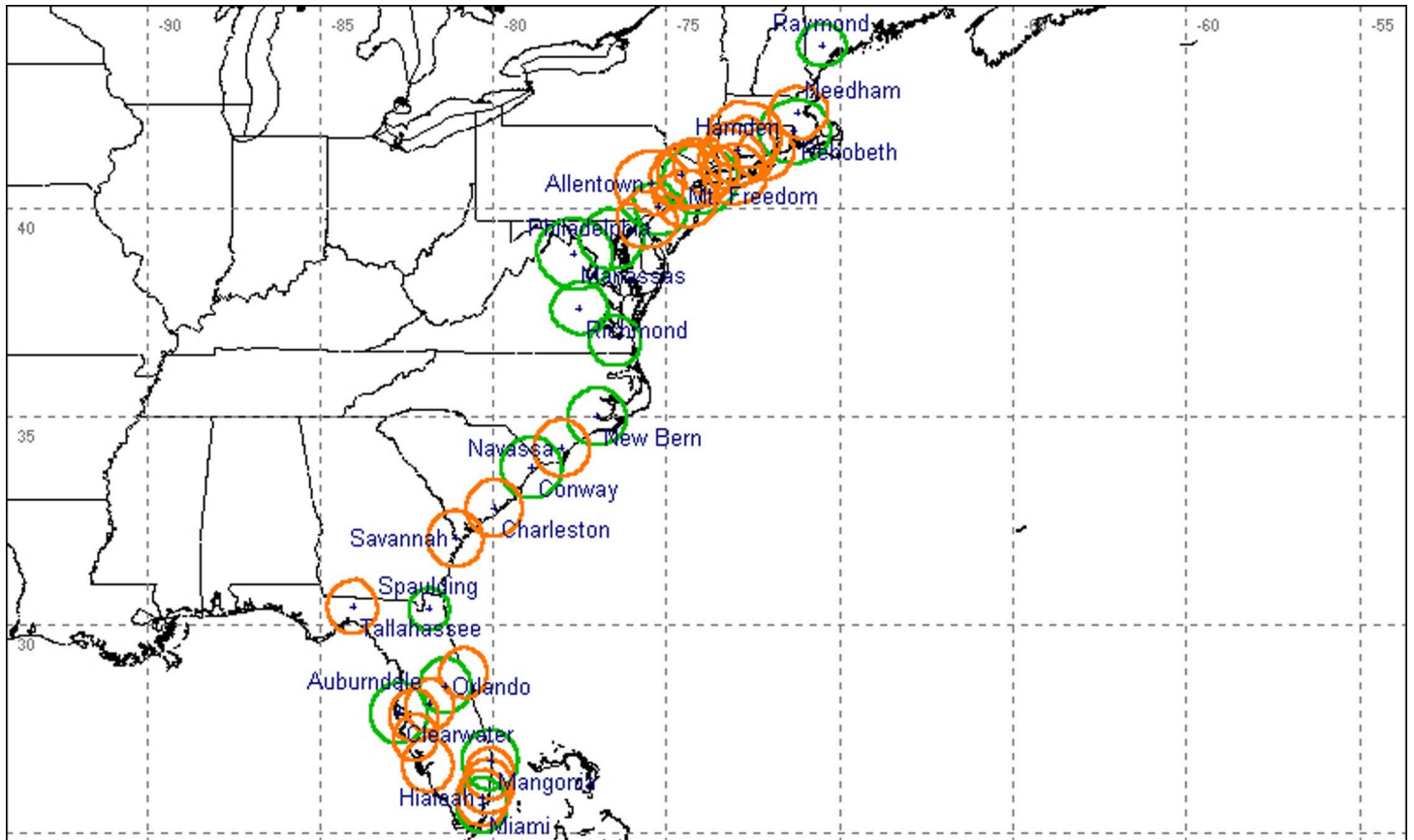
Map #3: Shows the stations that Orion/Regionet was originally licensed in 1996 to serve the “Atlantic Coast”.





**Exhibit 2 page 4:**

Map # 4: Shows the coverage Regionet would have if they had constructed and placed into operation, per the specifications of license WRV374, all of the stations that composed WRV374 (excluding Puerto Rico). The orange circles depict those sites for which Havens did not find an activation notice or weren't reported as constructed by 11/30/00.



**Exhibit 3: Samples of Activation Notices submitted by Regionet for WRV374 stations showing major modifications (antenna location and height changed) or that were untimely submitted after the deadline for the activation and the notice of activation on 11/30/00.**

**Regionet**  
Wireless License LLC

10/03/2000

Federal Communications Commission  
Attn: Special Services Branch  
1270 Fairfield Road  
Gettysburg PA 17325-7245

Re: Station Activation



Gentlemen:

In compliance with Administrative Note 46, I hereby inform you that Regionet Wireless License LLC will activate Public Coast Station WRV374 at Miami, FL. on or about November 29, 2000 to begin tests to commence service.

The facilities have been installed consistent with the terms of the authorization, except that the antenna has been placed at the 282 ft. level, as opposed to the originally licensed 60 ft. level. Additionally, the correct final coordinates are 25-41-06N, 080-18-54.3W. This location is within 0.5 miles of the original coordinates.

Regionet Wireless License LLC

By. 

Paul vander Heyden

Dated October 3, 2000

3700 Campus Drive Suite 100, Newport Beach, Ca. 92660  
Tel: (949) 474-7730 Fax: (949) 474-4350



**Exhibit 3 Page2:**

January 26, 2001

Regionet Wireless Licensee LLC  
3700 Campus Drive, Suite 100  
Newport Beach, California 92656

Federal Communications Commission  
Attn: Special Services Branch  
1270 Fairfield Road  
Gettysburg, PA 17325-7245

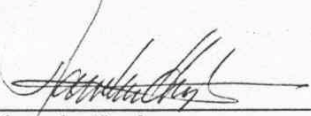
Re: Station Activation

Gentlemen:

In compliance with Administrative Note 46, I do hereby inform you that Regionet Wireless License LLC will activate Public Coast Station WRV374 at Perrineville NJ on or about January 31, 2001 to begin tests to commence service.

The facilities have been installed at the licensed coordinates, and the installed antenna height is 190 ft, as compared to the originally licensed 120 ft.

Regionet Wireless License LLC

By   
Paul vander Heyden

Date January 26, 2001



## **Exhibit 4**

### **Regionet WRV374 Stations that have antenna heights exceeding 200 feet**

1) Stations with antennas originally licensed at or below 200 feet, but recently raised above 200 feet according to activation notices. These are major modifications, require new applications and going on PN, and would now require a TV interference study and plan.

Richmond, VA

Spaulding, FL

Raymond, ME

New Bern, NC

Baltimore, MD

Miami, FL

Mangonia Park, FL

Philadelphia, PA

Rehobeth, MA

## Exhibit 5: Orion Telecom 2<sup>nd</sup> Waiver Request

### BROWN AND SCHWANINGER

LAWYERS  
1835 K STREET, N.W.  
SUITE 650  
WASHINGTON, D.C. 20006

ORIGINAL

DENNIS C. BROWN  
ROBERT H. SCHWANINGER, JR.  
KATHLEEN A. KAERCHER†  
† ADMITTED IN PENNSYLVANIA

(202) 223-8837

GETTYSBURG OFFICE  
1270 FAIRFIELD ROAD, SUITE 16  
GETTYSBURG, PENNSYLVANIA 17325

December 31, 1997

Federal Communications Commission  
1270 Fairfield Road  
Gettysburg, Pennsylvania 17325

Attention: Kim Kleppinger

Re: Request for Rule Waiver  
Fred Daniel d/b/a Orion Telecom  
Automated Maritime Telecommunications System  
Station WRV374 for the Atlantic Coast Region



Dear Ms. Kleppinger:

We represent the radio system interests of Fred Daniel d/b/a Orion Telecom before the Federal Communications Commission. Orion is currently authorized to construct and operate Automated Maritime Telecommunications System stations along the Atlantic Coast under the regional license for station WRV374. Orion respectfully requests waiver of Section 80.49 of the Commission's Rules to provide an extension of the period of time within which it may construct the authorized facilities.

Orion is currently operating AMTS stations along the Pacific Coast, using L-T-R type trunking equipment. During Summer 1997, the Commission authorized AMTS systems to provide service to land vehicles, provided that a priority of service is given to maritime units. The equipment which Orion currently uses in its Pacific Coast system cannot be configured efficiently to assure priority of service to maritime units. (To date, priority of service to maritime units is being provided by programming onshore units only on channels which are not shared by maritime units.) Accordingly, Orion must replace its current system with equipment which is capable of providing priority to maritime units, and must construct all of its new stations using the new technology. Orion believes that its situation is unique, because Orion knows of no other instance in which the Commission has authorized an existing service to expand the class of eligible users under circumstances which will require the licensee to replace all existing equipment to be able to serve the expanded class in compliance with the Commission's Rules.



The new equipment which Orion will use is not yet in use in the United States, and, therefore, there is no experience on which Orion can rely for the new equipment's operation. The new equipment is not compatible with the L-T-R equipment which Orion is currently using. Orion expects that it will be necessary to conduct a "shakedown cruise" of the new equipment and to make software and hardware corrections and adjustments during the first year of operation. Orion has ordered more than one million dollars worth of the new equipment and, as soon as it arrives, will begin replacing its existing Pacific Coast L-T-R system with the new equipment. Each user will be provided with a new radio in exchange for its L-T-R radio.

Orion has every confidence that the new equipment will be fully satisfactory, but since the equipment is new to the United States, Orion desires to introduce it in an orderly fashion, and, thereby, maximize customer acceptance of the technology before constructing the Atlantic Coast system and placing it in operation. By identifying and resolving any technical problems that may arise in its Pacific Coast operations first, Orion intends to avoid having those problems arise in the Atlantic Coast Region.

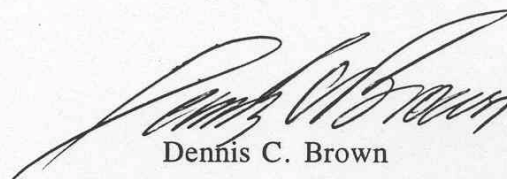
There is no reasonable alternative to Orion's requesting an extension of time to complete construction of the Atlantic Coast system. Although Orion could, conceivably, install L-T-R equipment along the Atlantic Coast, such equipment would not allow Orion to assure priority of service to maritime units in an efficient manner. Were Orion not able, therefore, to provide service to mobiles on land, Orion's service could not be competitive with Cellular and PCS services which can provide service without regard to priorities to classes of users. While Orion could provide Atlantic Coast subscribers with L-T-R equipment initially, doing so would surely in unduly high costs for replacing the L-T-R equipment later and would result in user annoyance, disruption, and dissatisfaction at the time that new equipment was exchanged for the L-T-R equipment. Accordingly, postponing the construction and operation of the Atlantic Coast system under waiver of Rule Section 80.49, 47 C.F.R. §80.49, is the only reasonable alternative.

For all the foregoing reasons, Orion respectfully requests an extension of time to construct the facilities authorized by the license for station WRV374 to May 30, 1999.

Neither the applicant nor any party to this request is subject to a denial of federal benefits by Federal and/or state courts under authority granted in 21 U.S.C. §862.

We thank the Commission for its attention to this matter. You may direct any questions concerning this matter to this office.

Respectfully submitted,



Dennis C. Brown

**Exhibit 6:** 1<sup>st</sup> page of FCC's letter of extension to Regionet giving them until 7/14/01 to construct their Erie Canal and Great Lakes Licenses

July 6, 2000

In Reply Refer To:  
2000F/KHF

Mr. Dennis C. Brown  
Attorney at Law  
126/B North Bedford Street  
Arlington, Virginia 22201

Re: RegioNet Wireless License, LLC  
Request for Extension of Construction Deadline  
Automated Maritime Telecommunications System  
Stations KCE240, KCE278, KPB531, KUF732, and WHG943  
Filed May 10, 2000

Dear Mr. Brown:

On May 10, 2000, you requested, on behalf of RegioNet Wireless License, LLC (RegioNet), a waiver of Section 80.49 of the Commission's Rules, 47 C.F.R. § 80.49, and a one-year extension of the July 14, 2000 construction deadline for the above-referenced Automated Maritime Telecommunications System (AMTS) stations at various locations along the Great Lakes. For the reasons stated below, the request is granted.

RegioNet, which is authorized to operate on AMTS Frequency Block A, requests an extension of the construction deadline because it needs additional time to obtain authority to co-locate its facilities with Paging Systems, Inc. (PSI) and then to complete construction of the authorized facilities. PSI, which is authorized to operate on AMTS Frequency Block B, filed a concurrent request for a one-year extension of the construction deadline for its Great Lakes system. RegioNet states that granting an extension of the construction deadline will allow it to provide more competitive AMTS service through its Great Lakes system as a result of co-location with PSI. In this regard, RegioNet states that co-locating with PSI will create certain economic efficiencies. It states that such a course of action is necessary in light of the realities of providing AMTS service in the Great Lakes region, particularly during the less profitable winter months when there is less maritime traffic.

Based on the record in this proceeding, we find that grant of the extension of the construction deadline is warranted. We believe that provision of more competitive AMTS offerings is in furtherance of the public interest. Therefore, we hereby GRANT the subject request to extend the construction deadline until July 14, 2001. We nonetheless note that we will be disinclined to grant any further extensions, absent showings of substantial progress towards completion of construction of the subject facilities. Thus, RegioNet will be expected to have all associated license modifications approved and

**Exhibit 6, page 2:** Regionet Erie Canal Activation Notices stating activation on 8/2/01 and 8/15/01—past the 7/14/01 deadline.

**August 10, 2001**

**Regionet Wireless Licensee LLC  
3700 Campus Drive, Suite 100  
Newport Beach, California 92656**

**Federal Communications Commission  
Attn: Special Services Branch  
1270 Fairfield Road  
Gettysburg, PA 17325-7245**

**Re: Station Activation**

**Gentlemen:**

**In compliance with Administrative Note 46, I do hereby inform you that Regionet Wireless License LLC will activate Public Coast Station KCE240 at Albany NY on or about August 15, 2001 to begin tests to commence service.**

**The facilities have been installed at 41-29-19, 73-56-48, which is approx 70 ft from the original licensed location. In addition, the antenna has been located at the 40 ft level as opposed to the originally licensed 120 ft level..**

**Regionet Wireless License LLC**

By   
**Paul vander Heyden**

**Date August 10, 2001**





**Exhibit 6, page 3: Regionet Activation Notice for Erie Canal License**

July 30, 2001

Regionet Wireless Licensee LLC  
3700 Campus Drive, Suite 100  
Newport Beach, California 92656

Federal Communications Commission  
Attn: Special Services Branch  
1270 Fairfield Road  
Gettysburg, PA 17325-7245

Re: Station Activation

Gentlemen:

In compliance with Administrative Note 46, I do hereby inform you that Regionet Wireless License LLC will activate Public Coast Station KCE240 at Beacon NY on or about August 2, 2001 to begin tests to commence service.

The facilities have been installed at the licensed coordinates and elevation.

Regionet Wireless License LLC

By

  
Paul vander Heyden

Date July 30, 2001

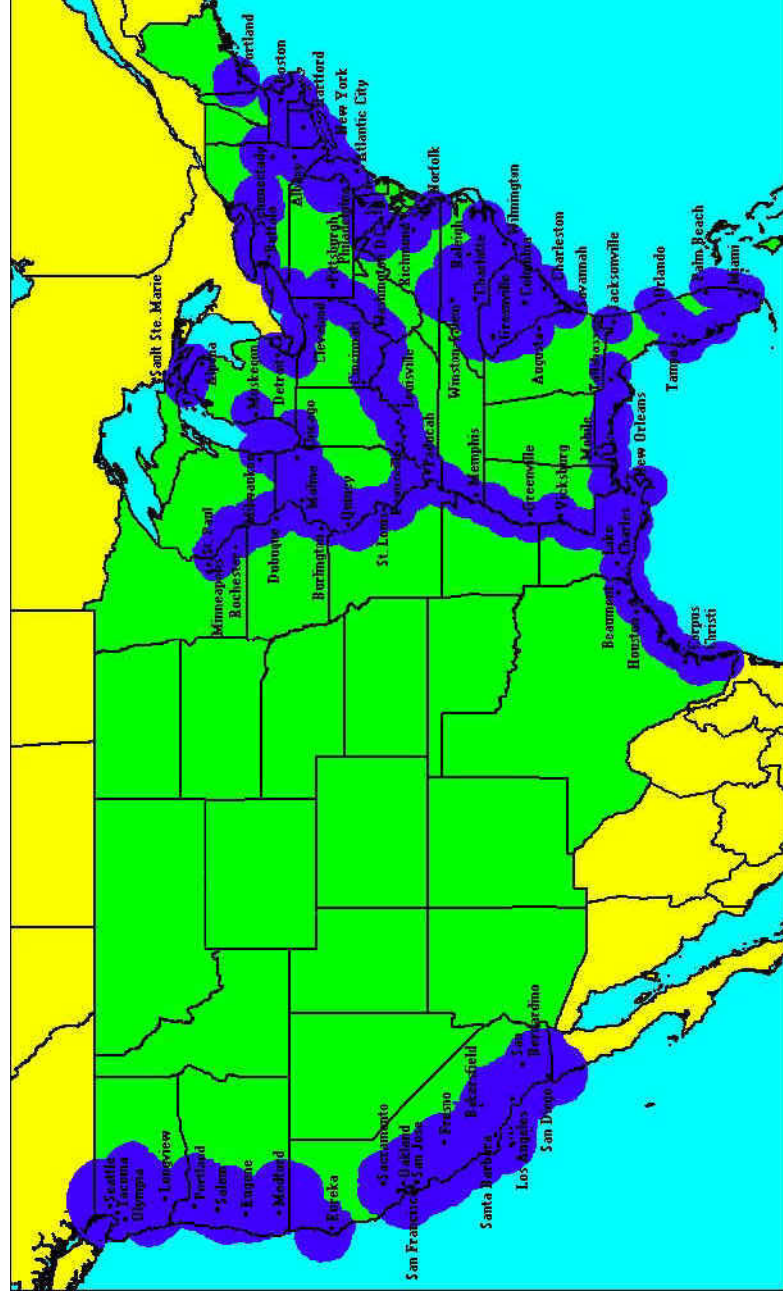


Exhibit 7: The following map showing the Mobex AMTS coverage was downloaded from their website at <http://www.mobex.com/map.htm>

Below description taken from: <http://www.mobex.com/RNET%20Wireless.htm>

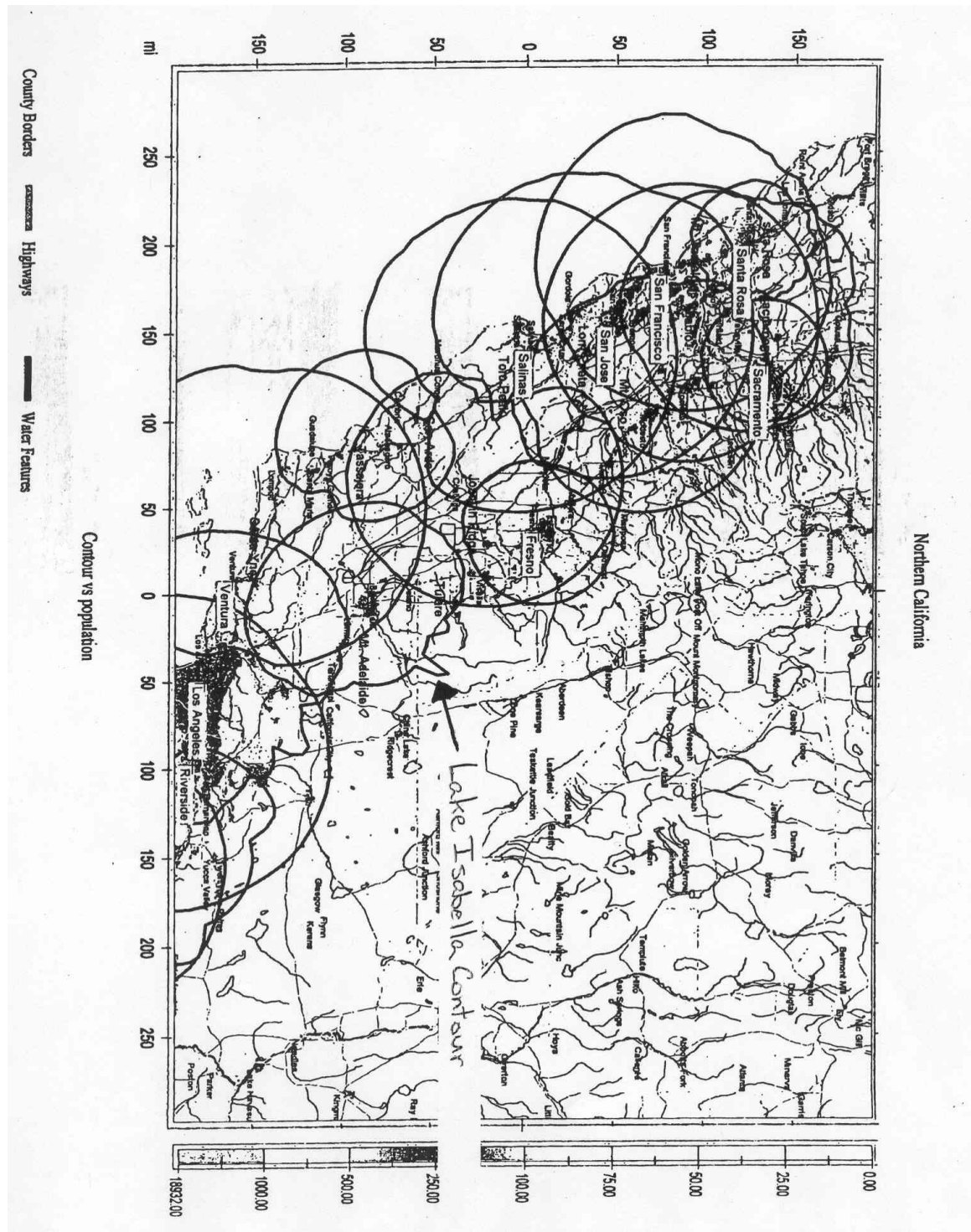
### **Coverage Map**

This map illustrates the expected coverage area of our future communications system. Please note that this image will take a long time to load, as it is a large graphic file.

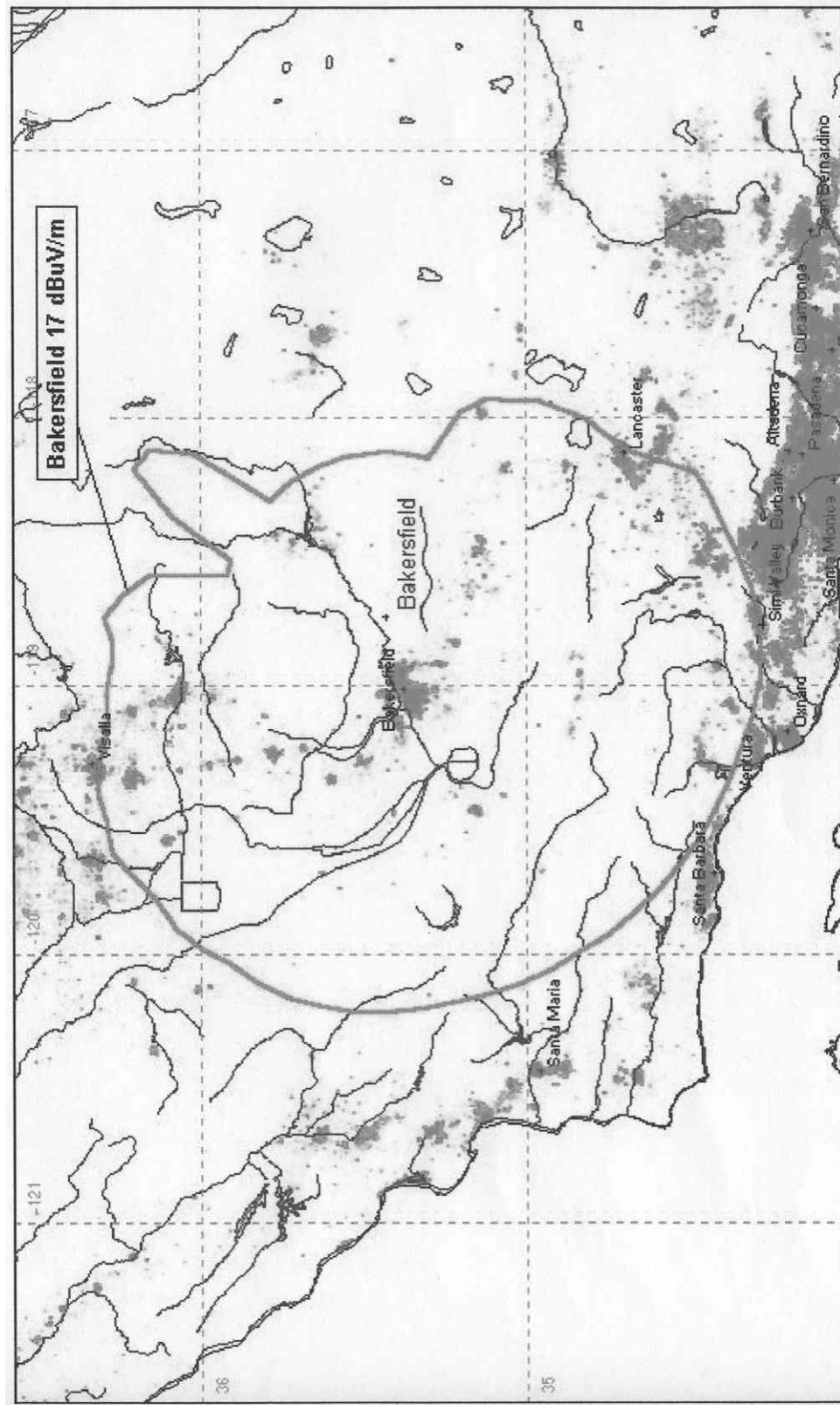




**Exhibit 8A: Regionet Lake Isabella Contour Map:** below map was taken from a Mobex Ex Parte Filing filed on April 19, 2001 re:PR Docket No. 92-257. The contour has been distinguished with an arrow and label.

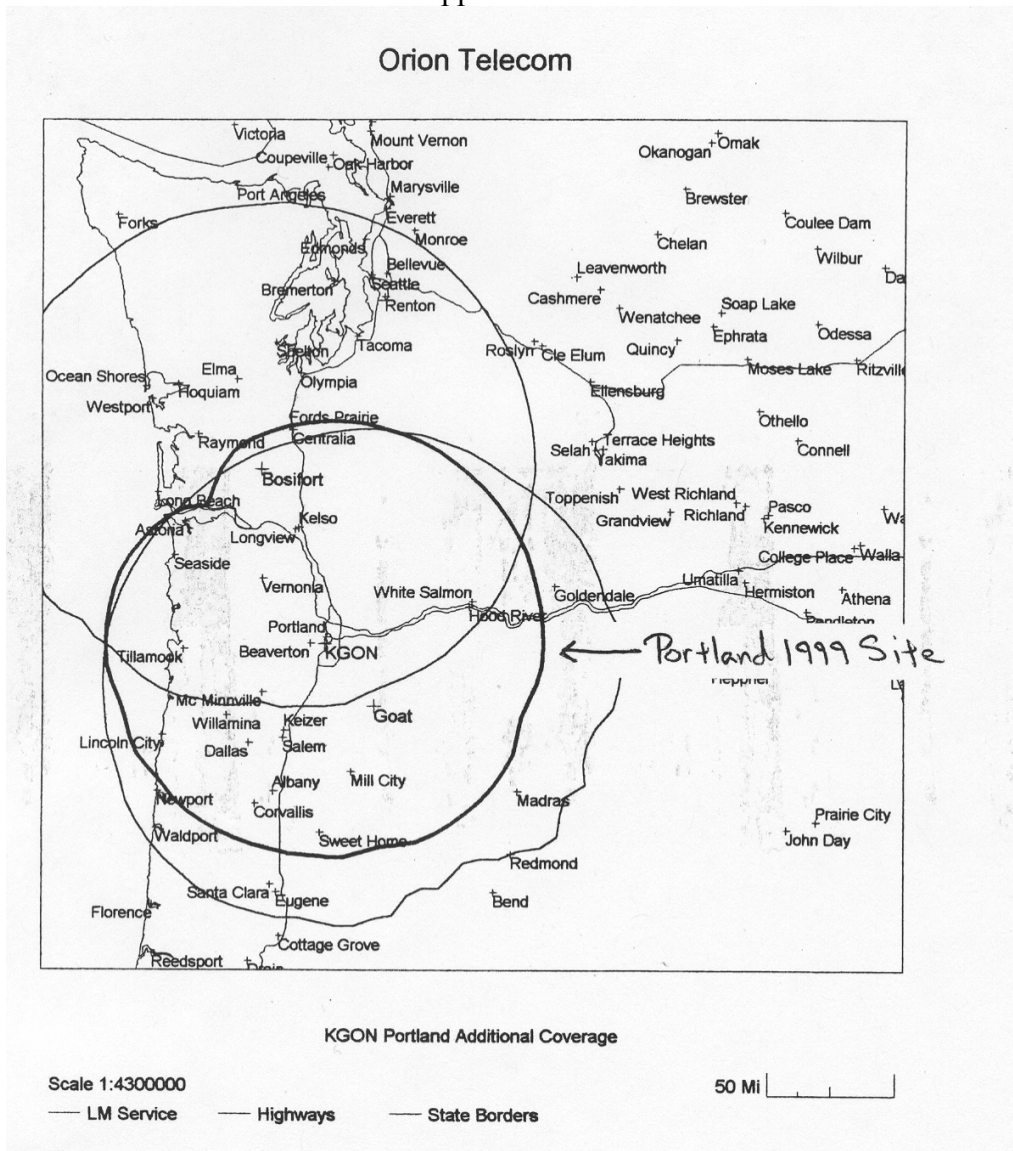


**Exhibit 8B—Lake Isabella Contour Map from Fox Ridge Communications** (see Exhibit 8E for explanation of methodology used to produce contour map)





**Exhibit 8C—Regionet Portland-Columbia River/Willamette River Contour Map:**  
 taken from the Regionet Portland Application licensed on 6/7/99. No contour map could  
 be found for their Portland 1993 application.



**Exhibit 8D—Port of Portland-Columbia River/Willamette River Contour Maps from Fox Ridge Communications: first map is derived from the Orion 1993 Portland site application and second map is derived from the Regionet 1999 Portland site application.**

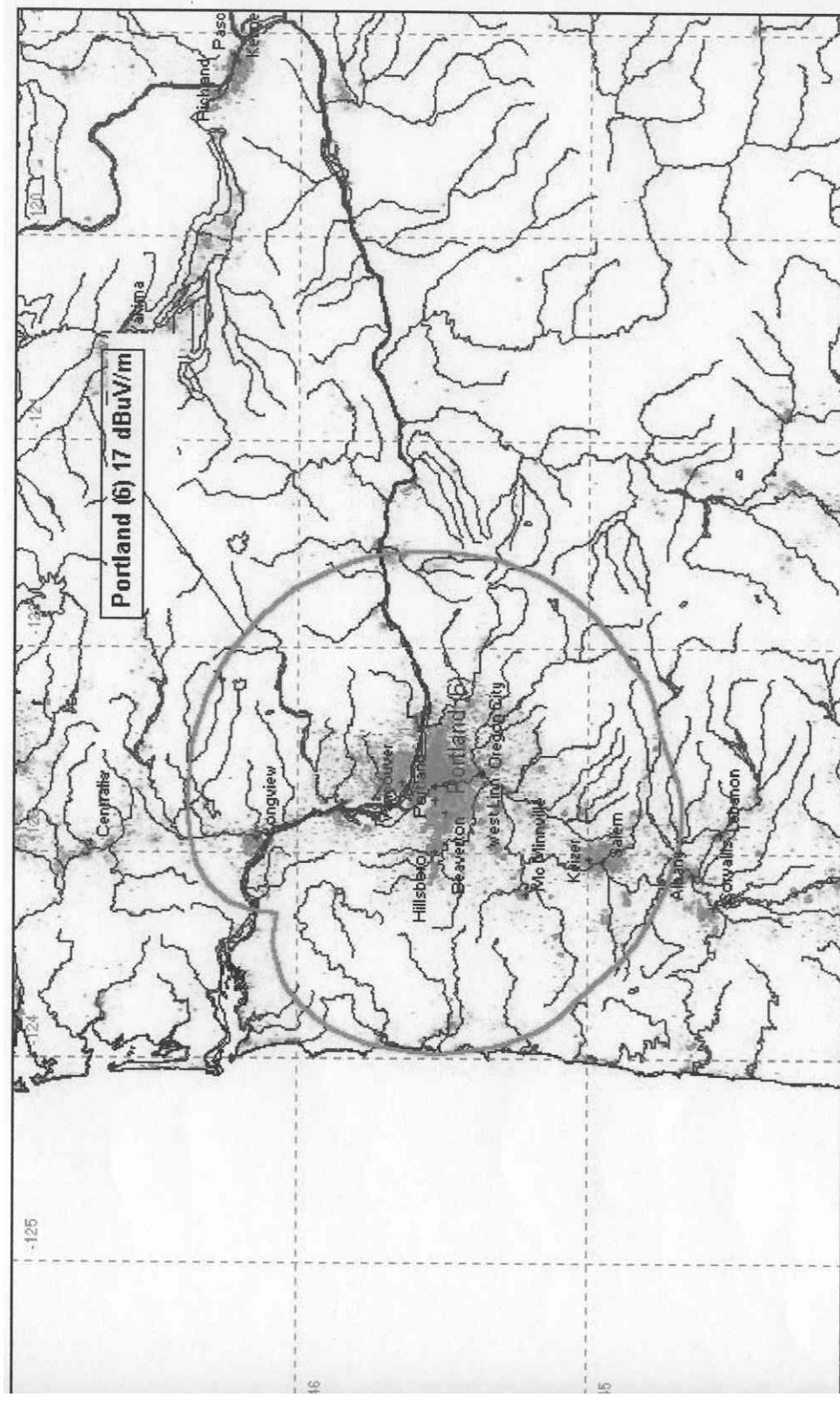
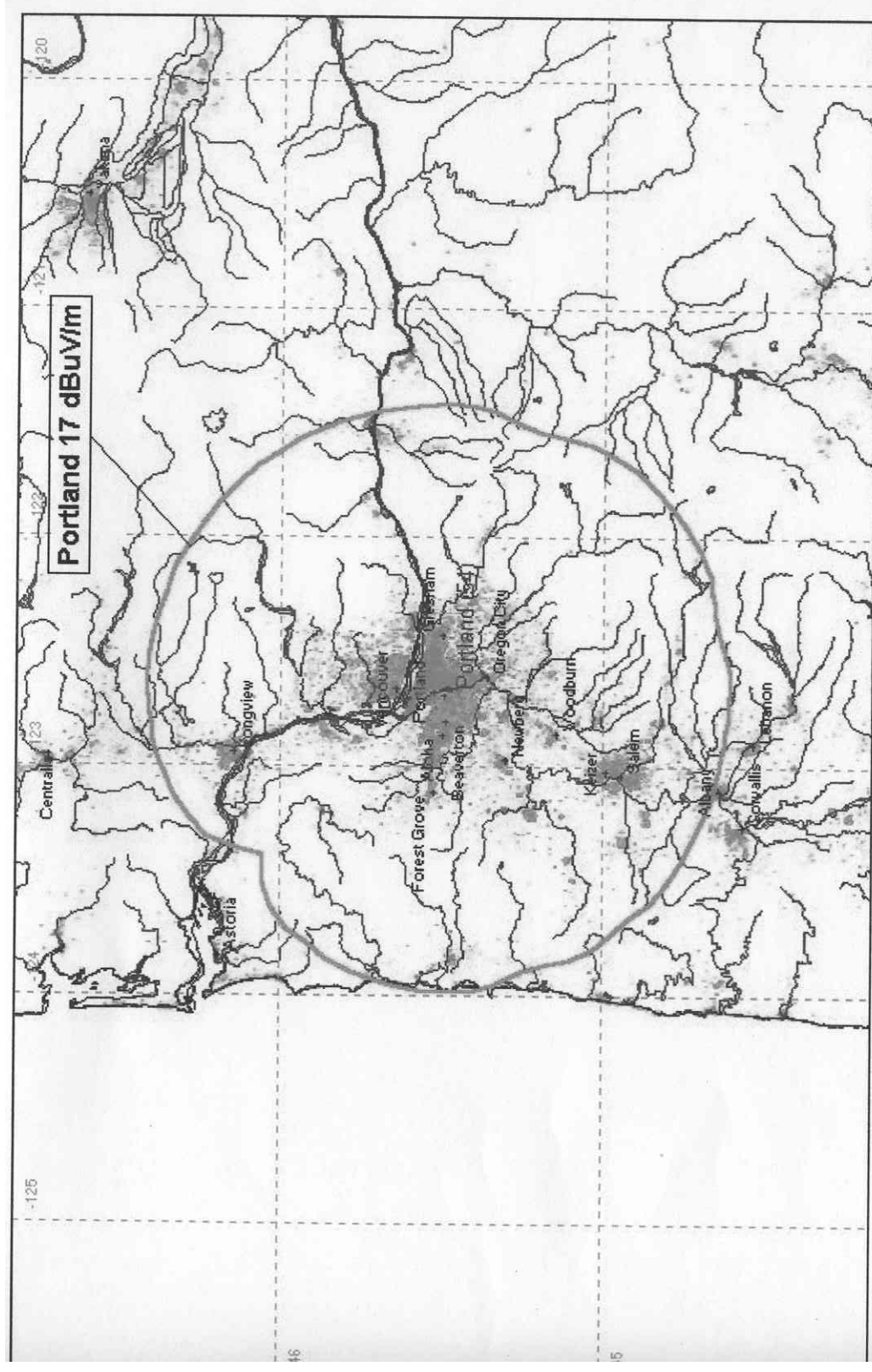




Exhibit 8D continued: 1999 Portland site contour



**Exhibit 8E—Methodology Used by Gary Stanford, engineer at Fox Ridge Communications, Inc., to generate the above contour maps (Exhibits 8B and 8D) using parameters listed in original Regionet/Orion applications.**

Gary Stanford used the data from the original site applications to produce the above exhibits and confirmed this data with the FCC database. The program used to generate the contours was RadioSoft software, ComStudy v.2.2. Each station's 17 dbuV/m contour was generated by the software, which uses FCC F (50, 50) propagation standards.

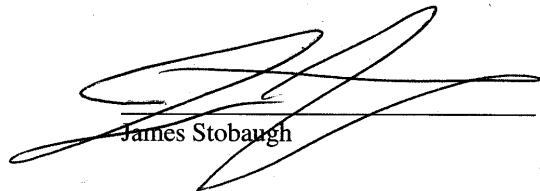
Certificate of Service

I, James Stobaugh, an employee of Warren Havens, certify that I have, on this 23<sup>rd</sup> day of September 2002, placed into the USPS mail system, with 1<sup>st</sup>-class postage, a copy of the foregoing Opposition, including all attachments, to the following:

Dennis C. Brown, Esq. (Counsel for Mobex)  
126/B North Bedford Street  
Arlington, VA 22201

John Reardon  
Mobex Communications, Inc.  
225 Reinekers Lane, Suite 770  
Alexandria, Virginia 22314

David L. Hill  
Audrey P. Rasmussen (Counsel for Paging Systems, Inc.)  
Hall, Estill, Hardwick, Gable, Golden & Nelson, P.C.  
1120 20<sup>th</sup> Street, N.W.  
Suite 700, North Building  
Washington, D.C. 20036-3406



James Stobaugh